

(c)(5)(i) and (ii) of this section, when an authorized purpose of the Project is to construct facilities to serve privately owned Real Property, the Recipient and the Owner must agree to use the Real Property improved or benefited by the EDA Investment Assistance only for the authorized purposes of the Project and in a manner consistent with the terms and conditions of the EDA Investment Assistance for the Estimated Useful Life of the Project.

(iv) *Unauthorized Use and compensation of Federal Share.* EDA may deem that a violation of this paragraph (c)(5) by the Recipient, Owner, purchaser, or lessee (as the case may be) constitutes an Unauthorized Use of the Real Property and the Recipient must agree to compensate EDA for the Federal government's Federal Share of the Project in the case of such Unauthorized Use.

[71 FR 56675, Sept. 27, 2006, as amended at 73 FR 62870, Oct. 22, 2008; 79 FR 76137, Dec. 19, 2014]

#### **§ 314.8 Recorded statement for Real Property.**

(a) For all Projects involving the acquisition, construction or improvement of a building, as determined by EDA, the Recipient shall execute a lien, covenant or other statement of EDA's interest in the Property acquired or improved in whole or in part with the EDA Investment Assistance. The statement shall specify the Estimated Useful Life of the Project and shall include, but not be limited to, the Disposition, encumbrance and Federal Share requirements. The statement shall be satisfactory in form and substance to EDA.

(b) The statement of EDA's interest must be perfected and placed of record in the Real Property records of the jurisdiction in which the Real Property is located, all in accordance with applicable law.

(c) Facilities in which the EDA Investment is only a small part of a large project, as determined by EDA, may be exempted from the requirements of this section.

(d) In extraordinary circumstances and at EDA's sole discretion, EDA may choose to accept another instrument to protect EDA's interest in Project Property, such as an escrow agreement or

letter of credit, provided that EDA determines such instrument is adequate and a recorded statement in accord with paragraph (a) of this section is not reasonably available. The terms and provisions of the relevant instrument shall be satisfactory to EDA in EDA's sole judgment. The costs and fees for escrow services and letters of credit shall be paid by Recipient.

[71 FR 56675, Sept. 27, 2006, as amended at 79 FR 76138, Dec. 19, 2014]

#### **§ 314.9 Recorded statement for Personal Property.**

For all Projects which EDA determines involve the acquisition or improvement of significant items of Personal Property, including ships, machinery, equipment, removable fixtures or structural components of buildings, the Recipient shall execute a Uniform Commercial Code Financing Statement (Form UCC-1, as provided by State law) or other statement of EDA's interest in the Personal Property, acceptable in form and substance to EDA, which statement must be perfected and placed of record in accordance with applicable law, with continuances re-filed as appropriate. Whether or not a statement is required by EDA to be recorded, the Recipient must hold title to the Personal Property acquired or improved as part of the Project, except as otherwise provided in this part.

[79 FR 76138, Dec. 19, 2014]

#### **§ 314.10 Procedures for release of EDA's Property interest.**

(a) *General.* As provided in § 314.2 of this chapter, the Federal Interest in Property acquired or improved with Investment Assistance extends for the duration of the Estimated Useful Life of the Project. While EDA determines the length of the Estimated Useful Life at the time of Investment award, in recent years, the length generally extends for 15 to 20 years, depending on the nature of the improvement. Prior to 1999, the Estimated Useful Life of some Projects, such as water and wastewater Projects, could extend for 40 years or more. Upon request of the Recipient, EDA will release the Federal Interest in Project Property upon expiration of the Estimated Useful Life